CLERK'S COPY

177

#02909
Sup. Ct.

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 658

LAMBIRIS SKIRIOTES, APPELLANT,

vs.

THE STATE OF FLORIDA

APPEAL FROM THE SUPREME COURT OF THE STATE OF FLORIDA

FILED DECEMBER 28, 1940.

BLANK PAGE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1940

No. 658

LAMBIRIS SKIRIOTES, APPELLANT,

vs.

THE STATE OF FLORIDA

APPEAL FROM THE SUPREME COURT OF THE STATE OF FLORIDA

INDEX.

	Original	Print
Proceedings in Supreme Court of Florida	a	1
Clerk's certificate (omitted in printing)	a	
Petition for writ of certiorari	1	1
Exhibit "A"—Judgment of Circuit Court of Pinellas County	8	3
Exhibit "B"—Record from County Court of Pinellas County	15	8
Notice of appeal to Circuit Court	15	9
Information	17	9
Motion to quash the information	20	11
Order denying motion to quash the information	28	18
Transcript of testimony and proceedings at trial	29	18
Stipulation of facts	29	19
Offers in evidence	34	23
Plea of defendant	39	27
Agreed statement of facts (copy) (omitted in printing)	40	
Judgment	46	28
Motion to set aside judgment and grant new trial	47	28
Motion in arrest of judgment	48	29
Order denying motion for new trial and motion in arrest of judgment	50	30

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., FEBRUARY 5, 1941.

—2474

	Original	Print
Petition for writ of certiorari—Continued		
Exhibit "B"—Record from County Court of Pinellas County—Continued		
Judgment and sentence	50	31
Motion for order of supersedeas	51	32
Supersedeas order	52	32
Grounds of appeal	53	33
Clerk's certificate (omitted in printing)	56	
Opinion, Terrell, J., and judgment	59	36
Petition for appeal	64	40
Assignments of error	81	47
Order allowing appeal	148	54
Citation and service (omitted in printing)	152	
Order fixing amount of bond on appeal	154	56
Bond for costs (omitted in printing)	156	
Praecipe indicating portions of the record to be incorporated in transcript	158	57
Amended praecipe indicating portions of the record to be incorporated in transcript	161	58
Statement of points to be relied upon and designation as to printing record	163	59

[fol. a] Clerk's Certificate to transcript omitted in printing.

[fol. 1] **IN SUPREME COURT OF FLORIDA**

Certiorari

LAMBIRIS SKIRIOTES

vs.

THE STATE OF FLORIDA

PETITION FOR WRIT OF CERTIORARI

Comes now Lambiris Skiriotes in prp persona and by his attorneys, Dickenson & Dickenson, and petitions this Honorable Court for a Writ of Certiorari commanding the Clerk of the Circuit Court of the Sixth Judicial Circuit of Florida, in and for Pinellas County, to transmit to this Court a true copy of the record and all proceedings in that certain cause in the said Circuit Court of Pinellas County, Florida, wherein Lambiris Skiriotes was Appellant and E. G. Cunningham, as Sheriff of Pinellas County, Florida, was Appellee, and wherein an order and judgment has been entered by the Honorable John U. Bird, one of the Judges of the said Circuit Court, wherein and whereby the said Circuit Judge did sustain the judgment of conviction and sentence of the said Lambiris Skiriotes, which said judgment of conviction was entered in the County Court of Pinellas County, Florida, and which said sentence of Lambiris Skiriotes was entered in the County Court of Pinellas County, Florida, finding the said Lambiris Skiriotes guilty of violating the provisions of Section 4 of Chapter 7389, [fol. 2] Laws of Florida of 1917, carrying forward of Section 8087 of the Compiled General Laws of Florida, 1927; copy of which said Order of the said Circuit Court is hereto attached and marked Exhibit "A" and made a part hereof, reference thereto being prayed as often as may be necessary; and for grounds of said petition your petitioner respectfully represents unto Your Honor that there was filed by the Prosecuting Attorney of Pinellas County, Florida, in the said County Court of Pinellas County, Florida, an

Information against the said Lambiris Skiriotes charging him with violating the provisions of law above set forth. That thereafter the said Lambiris Skiriotes filed in said cause his Motion to Quash the Information filed against him as aforesaid, which said Motion to Quash the Information was overruled and denied by the Court. That thereafter the said Lambiris Skiriotes was duly arraigned and entered a plea of not guilty. The cause thereupon proceeded to trial under an agreed statement of facts, there being no dispute or contention with respect to the actual facts and circumstances, and upon the trial in the said County Court by stipulation of both parties a jury was waived and said cause was heard and determined by the judge of the said County Court of Pinellas County, Florida, in the absence of a jury; the said Judge of the said County Court did find the said Lambiris Skiriotes guilty as charged in the Information; the said Lambiris Skiriotes thereupon filed his Motion for New Trial and also a Motion in Arrest of Judg-
[fol. 3] ment; upon hearing of the said Motions and argument of counsel thereupon the said Judge of the said County Court did deny each of said Motions and thereupon did pass sentence and judgment upon the said Lambiris Skiriotes; thereafter the said Lambiris Skiriotes did file his Notice of Appeal to the Circuit Court of the Sixth Judicial Circuit of Florida in and for Pinellas County; the said appeal was duly and legally perfected and the said cause came on for hearing before the said Circuit Court on appeal; all of which will more fully appear by a complete copy of the record of proceedings in said cause hereto attached and made a part of this application as fully as though set out herein in haec verba, reference thereto being prayed as often as may be necessary, the same being marked Exhibit "B".

That upon a hearing duly held before the said Circuit Court of Pinellas County, Florida, and upon argument of counsel, the said Circuit Court did affirm the judgment of the County Court of Pinellas County, Florida; a copy of the judgment of the said Circuit Court being hereto attached and marked Exhibit "A"; that your petitioner has no remedy by way of appeal from said order, your petitioner's only remedy being by application to this Honorable Court for Writ of Certiorari; that there is involved in this cause not only the interest and constitutional rights of this defendant but a question of large public interest affect-

ing a large number of citizens of the State of Florida, to [fol. 4] wit, all persons engaged in the sponge industry which is one of the largest industries of the State of Florida, and that it is necessary that this cause be reviewed by this Honorable Court in order that the law with respect to the matters involved in this litigation may be fully, definitely and finally adjudicated and determined, and the rights, privileges, and immunities of a large class of citizens of the State of Florida may be fully determined and settled.

Wherefore your petitioner prays that a Writ of Certiorari may be issued out of and by this Honorable Court directed to the Clerk of the Circuit Court of the Sixth Judicial Circuit of Florida in and for Pinellas County, commanding him to transmit to this Court a true copy of all records and proceedings in said cause in order that this Court upon inspection of the same may fully settle and determine the rights of all parties involved.

Lambiris Skiriotes, Petitioner. Dickenson & Dickenson, by W. B. Dickenson, Attorneys for Petitioner.

[fols. 5-7] *Duly sworn to by W. B. Dickenson. Jurat omitted in printing.*

Clerk's certificate to transcript from Circuit Court omitted in printing.

[fol. 8] EXHIBIT "A" TO PETITION

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF FLORIDA, IN AND FOR PINELLAS COUNTY

Min. Cir. Ct. 28, Pg. 3

LAMBIRIS SKIRIOTES, Appellant,

vs.

THE STATE OF FLORIDA, Appellee

Appeal from the County Court of Pinellas County, Florida

JUDGMENT—April 30, 1940

This cause is before this Court on appeal from that certain judgment of conviction of the Appellant entered by the Judge of the County Court, in and for Pinellas County,

Florida, on the 27th day of January A. D. 1940, wherein and whereby the said Judge, who by stipulation acted without the intervention of a jury, found the defendant, Lambiris Skiriotes, guilty as charged in the Information.

And also on appeal from the final judgment and sentence of the defendant by the said judge of the County Court, in and for Pinellas County, Florida, set forth at page 32 of the transcript, under which judgment and sentence the said Appellant, Lambiris Skiriotes, was by the Judge of the County Court of Pinellas County, Florida, sentenced to serve two days in the county jail of Pinellas County, Florida, and in addition thereto pay a fine of Fifty ($50.00) Dollars.

This Court, having inspected the record herein, finds that this Court has jurisdiction of the parties and the subject matter and that the Appellant was convicted and sentenced [fol. 9] under an Information filed by the Prosecuting Attorney for Pinellas County, Florida, under the provisions of Section 8087 of the Compiled General Laws of Florida, the said Section being a carrying forward of Section 4 of Chapter 7389, Laws of Florida of 1917.

The Court further finds that the said statute does not define what are and constitute the "territorial waters of the State of Florida", but that the Constitution of 1885, which is the present constitution of the State of Florida, undertakes to define what constitutes the territorial limits of the State of Florida and that the constitutional provision places the western limit of the State of Florida off the West shore of Pinellas County, Florida, at a line drawn parallel with mean low tide on the shore line of Pinellas County and nine nautical miles or three marine leagues from shore; that this boundary, fixed by the Constitution, would include within the territorial waters of the State of Florida and within the territorial waters of Pinellas County, Florida, a strip of water lying parallel to and West of mean low tide on the shore line of Pinellas County, Florida, nine nautical miles wide extending East and West.

The Court further finds that under the agreed stipulation of facts, upon which stipulation the County Judge based his findings and conclusion, verdict and judgment, conclusively establishes the fact without dispute that the Appellant was arrested at a point two marine leagues from mean low tide [fol. 10] on the shore line of Pinellas County, Florida, and two marine leagues from the nearest point of land of Pinel-

las County, Florida, while diving for commercial sponge by the use of ordinary diving apparatus commonly used by deep-sea divers for the purpose of taking or catching commercial sponges from the floor of the Gulf of Mexico, and at the time of his arrest was in the act of and did take commercial sponges at that time and place from the floor of the Gulf of Mexico by the use of said diving apparatus.

The Court further finds that the appellant assigns the following grounds of appeal from the judgment of conviction and sentence of appellant by the said Judge of the County Court in and for Pinellas County, Florida, to wit:

1. The Court erred in overruling and denying the defendant's Motion to Quash the Information filed against him in this cause.

2. The Court erred in holding and determining that the jurisdiction of the Criminal Courts of the State of Florida extends westward from mean low tide on the mainland and adjacent islands of the State of Florida a distance of three marine leagues or nine nautical miles.

3. The Court erred in holding that the boundaries of the State of Florida, as fixed by the Constitution of Florida of 1885, extending three marine leagues West from mean low tide on the West Coast of Florida, did not violate Section One of Article 14 of the Constitution of the United States of America, originally adopted as the Fourteenth Amendment to the Constitution of the United States of America.

4. The Court erred in holding and determining that the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, were not violative of [fol. 11] Article 6 of the Constitution of the United States of America.

5. The Court erred in holding that the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, were valid and not in violation of Article 2, Section 2, Clause 2, of the Constitution of the United States of America.

6. The Court erred in holding that the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, were valid and enforceable and not in violation of Article One, Section 10, Paragraph One of the Constitution of the United States of America.

7. The Court erred in holding that the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, were valid and not in violation of Article One, Section 10, Paragraph 3 of the Constitution of the United States of America.

8. The Court erred in holding that the law of the State of Florida under which the Information was filed against the defendant in this cause, and which law is based upon the boundaries of the State of Florida as established by the Constitution of the State of Florida of 1885 was not in violation of the various treaties made and entered into by the United States of America, each of which is specifically set forth in the Motion to Quash the Indictment.

9. The Court erred in holding that the law under which the Information in this cause was filed against this defendant and which said law is based upon and of necessity relies [fol. 12] upon the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, is valid and not in violation of the decisions of the Political and Executive Departments of the Federal Government as to what is and constitutes the extreme limits of the territorial boundaries of the United States of America, as will be more fully shown by reference to the Seventh Ground of the Motion to Quash the Information.

10. The Court erred in holding and determining under the evidence in this cause submitted to the Court in an agreed statement of facts, the same being filed in this cause, that the alleged offense charged in the Information against the defendant under the agreed statement of facts occurred, was committed, done and performed within the territorial jurisdiction of the Criminal Courts of the State of Florida.

11. The Court erred, under the facts shown by this record, in holding and determining that this Court had jurisdiction to try and determine the charge in the Information.

12. The Court erred in his determination and holding that the territorial limits of the State of Florida extend westward from mean low tide on the shore line of the State of Florida and adjacent islands thereto a distance of three marine leagues into the Gulf of Mexico.

13. The Court erred in its order overruling and denying the Motion for New Trial upon each of the grounds therein set forth.

[fol. 13] 14. The Court erred in his order overruling and denying the defendant's Motion in Arrest of Judgment upon each of the grounds set forth in the said Motion.

The Court, having inspected the record of proceedings and the evidence contained therein, and the law with relation thereto, is of the opinion that the verdict and final judgment and sentence of the Appellant by the lower Court should be sustained for the following reasons:

This Court is of the opinion and so holds that the jurisdiction of the Criminal Courts of the State of Florida does extend nine nautical miles or three marine leagues from mean low tide on the Coast line of the State of Florida westward into the Gulf of Mexico, notwithstanding the various provisions of the Constitution of the United States set forth in the Grounds of Appeal.

2. The Court is of the opinion and so holds that the boundaries of the State of Florida on the West shore of the State of Florida as fixed by the Constitution of the State of Florida of 1885 extending the western boundary of the State of Florida three marine leagues from mean low tide on the western coast of the State of Florida and adjacent islands is valid and binding on the courts of the State of Florida, notwithstanding the following provisions of the Constitution of the United States, to wit: Article 6, Article 2, Section 2, Clause 2; Article 1, Section 10, Paragraph 1; Article 1, Section 10, Paragraph 3.

3. This Court is further of the opinion and holds that the boundary line fixed as the western boundary of the State of [fol. 14] Florida by the Constitution of 1885 is valid and binding upon the Criminal Courts of the State of Florida, notwithstanding the various treaties entered into with foreign countries set forth in the record and which said treaties of the United States were entered into pursuant to the authority of the Constitution of the United States, and each and all of the same fix the international boundary at one marine league from mean low tide on the shore line of the mainland and adjacent islands.

4. The Court is further of the opinion and holds that the western boundary line of the State of Florida as fixed by the Constitution of the State of Florida of 1885 is valid and binding on the Criminal Courts of the State of Florida, notwithstanding the decisions and political opinions of the Executive Department of the Federal Government announced since 1794 down to the present time to the effect that the extreme limits of the territorial boundaries of the United States of America is and shall be a line parallel with and one marine league from mean low tide on the shore of the mainland and adjacent islands of the United States, which said line is and constitutes the recognized international boundary line.

Wherefore the judgment of conviction of the Appellant by the County Court of Pinellas County, Florida, and the sentence imposed on the Appellant by the County Court of Pinellas County, Florida, are each hereby affirmed.

Done and Ordered at Clearwater, Pinellas County, Florida, this 30th day of April, A. D. 1940.

John U. Bird, Judge of the Said Court.

[fol. 15] EXHIBIT "B" TO PETITION

IN COUNTY COURT IN AND FOR PINELLAS COUNTY, FLORIDA

THE STATE OF FLORIDA

vs.

LAMBIRIS SKIRIOTES

Information for: Violation of Section 8087 Compiled General Laws of Florida prohibiting the use of diving apparatus in taking sponge.

Certified Copy of Appeal Papers

I, Ray E. Green, Clerk of the County Court, in and for Pinellas County, Florida, in compliance with Section 301 of Chapter 19554, have prepared the necessary appeal papers in the above entitled cause and attached the same hereto as follows:

IN COUNTY COURT IN AND FOR PINELLAS COUNTY

[Title omitted]

NOTICE OF APPEAL TO CIRCUIT COURT—Filed Feb. 26, 1940

Comes now the above named defendant, Lambiris Skiriotes, and enters this his appeal in the above entitled cause from the judgment of conviction heretofore entered against this defendant in said cause and from the sentence interposed [fol. 16] upon this defendant upon the said judgment of conviction, and makes the same returnable in the Circuit Court of the Sixth Judicial Circuit of Florida, in and for Pinellas County, on the 29th day of March, A. D. 1940.

Dickenson & Dickenson, by W. B. Dickenson, Jr., Attorneys for Defendant.

(Back of Instrument)

Co. Ct. 13, Page 404.

STATE OF FLORIDA,
County of Pinellas:

Came to hand this 26th day of February 1940, and executed the same in Pinellas County, Florida, on the 26th day of February, 1940, by delivering a true copy of the original, to Chester B. McMullen, State's Attorney, of the Sixth Judicial Circuit of Florida, in and for Pinellas County, for The State of Florida, the within named Defendant.

E. G. Cunningham, Sheriff, Pinellas County, Florida, by Geo. J. Bolton D/S 4449 Co. Cr.

[fol. 17] ENTRY OF APPEAL

Filed for Record in the Office of the Clerk of the Circuit Court of the County of Pinellas, State of Florida, on Feb. 26, 1940, at 5:00 o'clock P. M. and recorded in Co. Ct. Record No. 13 on Page 403 and the Record verified.

Ray E. Green, Clerk, by Annie Mae Holley, D. C.

Dickenson & Dickenson, Attorneys for Defendant.

[File endorsement omitted.]

IN COUNTY COURT OF PINELLAS COUNTY

STATE OF FLORIDA

vs.

LAMBIRIS SKIRIOTES

INFORMATION FOR VIOLATION OF SECTION 8087, COMPILED GENERAL LAWS OF FLORIDA PROHIBITING THE USE OF DIVING APPARATUS IN TAKING SPONGE—Filed January 20, 1940

In the Name and By the Authority of the State of Florida:

Henry S. Baynard, Prosecuting Attorney, for the County of Pinellas, prosecuting for the State of Florida, in the said County, under oath, information makes that Lambiris Skiriotes of the County of Pinellas and State of Florida, on the 8th day of March in the year of our Lord, one thousand nine hundred and thirty-eight, in the County and State aforesaid, knowingly, willfully and unlawfully maintained and used for the purpose of catching or taking commercial sponges from the Gulf of Mexico within the territorial limits of the State of Florida, to wit, at a point more than one marine league from mean low tide on the West shore line of [fol. 18] the State of Florida and Southwest of Anclote Key and Northwest of Hog Island and within three marine leagues of mean low tide on the West shore line of the State of Florida at a point approximately two marine leagues from mean low tide on the West shore line of the State of Florida and within the territorial limits of the County of Pinellas, a diving suit, helmet, and other apparatus used by deep-sea divers, and did then and there catch or take commercial sponges from the Gulf of Mexico in violation of the provisions of Section 4 of Chapter 7389, Laws of Florida, enacted in 1917 and re-enacted as Section 8087, Compiled General Laws of Florida adopted in 1927, contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the State of Florida.

Henry S. Baynard, Prosecuting Attorney, Pinellas County, Florida.

STATE OF FLORIDA,
County of Pinellas:

Personally appeared before me the undersigned Prosecuting Attorney for Pinellas County, Florida, who being first duly sworn, says that the allegations as set forth in the foregoing are based upon facts that have been sworn to as true, and which if true, would constitute the offense therein charged.

Henry S. Baynard, Prosecuting Attorney.

Sworn to and subscribed before me this 20th day of January, A. D. 1940. Ray E. Green, Clerk of the County Court, by Ina Belle Helms, D. C. (The County Court Seal, Pinellas County, Florida.)

[fol. 19] (Back of instrument) Witnesses for the State: E. G. Cunningham, Samuel Mickler.

[File endorsement omitted.]

[fol. 20] IN COUNTY COURT OF PINELLAS COUNTY

[Title omitted]

MOTION TO QUASH INFORMATION

To the Honorable Jack F. White, Judge of the Said Court:

Comes now the above named Defendant, Lambiris Skiriotes, by his attorneys, Dickenson & Dickenson, of Tampa, and respectfully shows unto the Court that the Information filed against him in the above entitled cause on January 19, 1940, wholly fails to charge this Defendant with the violation of any valid statute or law of the State of Florida, but on the contrary shows upon its face that this Defendant could not under the allegations of the Indictment be held guilty of violation of any valid law of the State of Florida, in this, the said Information charges that this Defendant at a point more than one marine league from mean low tide on the West shore line of the State of Florida at a place approximately two marine leagues from shore was using diving apparatus commonly used by deep-

sea divers for the purpose of taking or catching commercial sponges from the Gulf of Mexico; that the said place and point charged in the Information is outside of the territorial limits of the United States of America, and therefore necessarily outside of the territorial limits of the State of Florida, which obviously could not extend without the territorial limits of the United States; that the said Information was filed under the provisions of Section 4 of Chapter 7389, [fol. 21] Laws of Florida enacted by the Legislature of Florida in 1917, and re-enacted as Section 8087, Compiled General Laws of Florida adopted in 1927; that the said law under which the Information was filed is invalid, unenforceable, null and void by reason of the fact that the same is unconstitutional being in violation of the provisions of the Constitution of the United States of America now enforced; to wit: Section One of Article 14, originally adopted as the Fourteenth Amendment to the Constitution of the United States.

Second. The said statute of the State of Florida under which the said Information was filed violates the provisions of Article 6 of the Constitution of the United States of America.

Third. The said law of the State of Florida under which the Information was filed violates Article 2, Section 2, Clause 2, of the Constitution of the United States of America.

Fourth. The law of the State of Florida under which the Information was filed in this cause violates Article One, Section 10, Paragraph One, of the Constitution of the United States of America.

Fifth. The law of the State of Florida under which the said Information was filed violates Article One, Section 10, Paragraph 3, of the Constitution of the United States of America.

Sixth. The law of the State of Florida under which the Information was filed against this Defendant in this cause is null and void in that it violates the treaty provisions of the United States of America in the following respects and following treaties:

[fol. 22] The treaty entered into between the United States of America and Spain and designated a treaty of amity,

settlement, and limits, which was signed at Washington, February 22, 1819; ratification of the same being advised by the Senate, February 19, 1821; same being ratified by the President, February 22, 1821; the same being ratified by Spain, October 24, 1820; ratifications exchanged at Washington, D. C. February 22, 1821; and proclaimed by the President on February 22, 1821; the same being the treaty under which the United States acquired from Spain the State of Florida, which said treaty conveyed to the United States only the uplands of the Peninsular of Florida, together with certain islands lying adjacent thereto, and fixed the boundaries of the State of Florida at mean low tide on both the Atlantic Ocean and the Gulf Coast of the State.

Treaty Series, No. 685. Convention between the United States and Great Britain—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, January 23, 1924; Ratification advised by the Senate, March 13, 1924; Ratified by the President, March 21, 1924; Ratified by Great Britain, April 30, 1924; Ratifications exchanged at Washington, May 22, 1924; Proclaimed, May 22, 1924.

Treaty Series, No. 694. Convention between the United States and Germany—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, May 19, 1924; Ratification advised by the Senate, May 26, 1924; Ratified by the President, August 9, 1924; Ratified by Germany, July 8, 1924; Ratifications exchanged at Washington, August 11, 1924; Proclaimed, August 11, 1924.

Treaty Series, No. 693. Convention between the United States and Denmark—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, May 29, 1924; Ratification advised by the Senate, June 3, 1924; Ratified by the President, July 11, 1924; Ratified by Denmark, July 8, 1924; Ratifications exchanged at Washington, July 25, 1924; Proclaimed July 25, 1924.

Treaty Series, No. 702. Convention between the United States and Italy—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, June 3, 1924; Ratification advised by the Senate, June 4, 1924; Ratified by the President, October 16, 1924; Ratified by Italy, July 7, 1924; Ratifications exchanged at Washington, October 22, 1924; Proclaimed, October 22, 1924.

Treaty Series, No. 689. Convention between the United States and Norway—Prevention of Smuggling of Intoxi-

cating Liquors; Signed at Washington, May 24, 1924; Rati-
[fol. 23] fication advised by the Senate, May 31, 1924; Ratified by the President, June 20, 1924; Ratified by Norway, June 20, 1924; Ratifications exchanged at Washington, July 2, 1924; Proclaimed, July 2, 1924.

Treaty Series, No. 698. Convention between the United States and Sweden—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, May 22, 1924; Ratification advised by the Senate, May 26, 1924; Ratified by the President, August 15, 1924; Ratified by Sweden, June 13, 1924; Ratifications exchanged at Washington, August 18, 1924; Proclaimed, August 18, 1924.

Treaty Series, No. 712. Convention between the United States and the Netherlands—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, August 21, 1924; Ratification advised by the Senate, December 10, 1924; Ratified by the President, February 26, 1925; Ratified by the Netherlands, March 31, 1925; Ratifications exchanged at Washington, April 8, 1925; Proclaimed April 8, 1925.

Treaty Series, No. 707. Convention between the United States and Panama—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, June 6, 1924; Ratification advised by the Senate, December 10, 1924; Ratified by the President, January 15, 1925; Ratified by Panama, December 30, 1924; Ratifications exchanged at Washington, January 19, 1925; Proclaimed, January 19, 1925.

Treaty Series, No. 749. Convention between the United States and Spain—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, February 10, 1926; Ratification advised by the Senate, March 3, 1926; Ratified by the President, March 30, 1926; Ratified by Spain, July 20, 1926; Ratifications exchanged at Washington, November 17, 1926; Proclaimed, November 17, 1926.

Treaty Series, No. 738. Convention between the United States and Cuba—Prevention of Smuggling of Intoxicating Liquors; Signed at Habana, March 4, 1926; Ratification advised by the Senate, April 9, 1926; Ratified by the President, April 15, 1926; Ratified by Cuba, June 17, 1926; Ratifications exchanged at Habana, June 18, 1926; Proclaimed June [illegible] 1926.

Treaty Series, No. 755. Convention between the United States and France—Prevention of Smuggling of Intoxicat-

ing Liquors; Signed at Washington, June 30, 1924; Ratification advised by the Senate, December 12, 1924; (Legislative Day of December 10, 1924) Ratified by the President December 30, 1924; Ratified by France, March 1, 1927; Ratifications exchanged at Washington, March 12, 1927; Proclaimed, March 12, 1927.

[fol. 24] Treaty Series, No. 829. Prevention of Smuggling of Intoxicating Liquors—Convention between the United States of America and Chile; Signed at Washington, May 27, 1930; Ratification advised by the Senate of the United States, June 28, 1930; Ratified by the President of the United States, July 21, 1930; Ratified by Chile, October 2, 1930; Ratifications exchanged at Washington, November 25, 1930; Proclaimed by the President of the United States, November 26, 1930.

Treaty Series, No. 772. Convention between the United States and Greece—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, April 25, 1928; Ratification advised by the Senate, May 25, 1928; (Legislative Day of May 3, 1928); Ratified by the President, June 11, 1928; Ratified by Greece, January 8, 1929; Ratifications exchanged at Washington, February 18, 1929; Proclaimed, February 18, 1929.

Treaty Series, No. 807. Convention between the United States and Japan—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, May 31, 1928; Ratification advised by the Senate, January 26, 1929; Ratified by the President, January 30, 1929; Ratified by Japan, November 22, 1929; Ratifications exchanged at Washington, January 16, 1930; Proclaimed, January 16, 1930.

Treaty Series, No. 759. Convention between the United States and Belgium—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, December 9, 1925; Ratification advised by the Senate, March 3, 1926; Ratified by the President, March 30, 1926; Ratified by Belgium, December 5, 1927; Ratifications exchanged at Washington, January 11, 1928; Proclaimed, January 11, 1928.

Treaty Series, No. 821. Prevention of Smuggling of Intoxicating Liquors—Convention between the United States of America and Poland; Signed at Washington, June 19, 1930; Ratification advised by the Senate of the United States, June 28, 1930; Ratified by the President of the United States July 11, 1930; Ratified by Poland, August 1,

1930; Ratifications exchanged at Warsaw, August 2, 1930; Proclaimed by the President of the United States, August 8, 1930.

Seventh. The said law of the State of Florida under which the Information was filed against this Defendant in this cause violates the decision of the political and executive departments of the federal government on the question of what is and constitutes the extreme limits of the territorial boundaries of the United States of America shown by the Report of the 1929 Conference at Geneva of [fol. 25] the League of Nations, issued by the Publications Department of the League of Nations "Conference for the Codification of International Law" Tome II.—Eaux Territoriales.

Also, on November 8, 1793, Mr. Jefferson, then Secretary of State, wrote a letter to the British Minister at Washington, in which he said that the President had instructed him to say that officers acting under his authority to consider those heretofore given them as restrained for the present to the distance of one sea league or three geographical miles from the seashores. 1 Moore's Digest of International Law, page 702; League of Nations Conference for the Codification of International Law, Vol. 2, page 129.

On the same date Mr. Jefferson addressed to the French Minister to the United States, a note to the same effect. (1 American State Papers, Foreign Relations, 183.)

On September 2, 1796, Mr. Pickering, Secretary of State, addressed to Lieutenant-Governor of Virginia, as Follows:

"Our jurisdiction * * * has been fixed to extend three geographical miles from our shores."

1 Moore's Digest of International Law, page 704, League of Nations, Vol. 2, page 129.

On February 3rd, 1807, Mr. Madison, Secretary of State, addressed Messrs. Monroe and Pinkney, Ministers to England, as follows:

"There could surely be no pretext for allowing less than [fol. 26] a marine league from the shore, that being the narrowest allowance found in any of the authorities on the law of nations."

1 Moore's Digest — International Law, page 705, League of Nations, Vol. 2, page 129.

On December 16, 1862, Mr. Seward, Secretary of State, addressed a letter to Mr. M. Tassara, Spanish Minister, stating that the United States territory extended one marine league or three miles from the coastline. (1 Moore's Digest of International Law, page 706-707; League of Nations Conference for the Codification of International Law, Vol. 2, page 129-130.)

On May 28, 1886, Mr. Bayard, Secretary of State, wrote Mr. Manning, Secretary of the Treasury, in which he said:

"The position of this department has uniformly been that the sovereignty of the shore does not, so far as territorial authority is concerned, extend beyond three miles from low-water mark, etc."

1 Wharton's Digest of International Law, page 107; 1 Moore's Digest of International Law, page 720; League of Nations, Vol. 2, page 130.

On July 3, 1902, Mr. Herbert H. D. Pierce, Agent of the United States in the C. H. White case, Russian arbitration, in reply to the question asked by Mr. T. M. C. Asser, arbitrator, said:

"The Government of the United States claims, neither in Bering Sea nor in its other bordering waters, an extent of jurisdiction greater than a marine league from its shores, etc."

[fol. 27] U. S. Foreign Relations 1902, Appendix 1, pages 440, 461; League of Nations Conference for the Codification of International Law, Vol. 2, page 130.

On January 23, 1904, in an address of Mr. Chief Justice Charles E. Hughes, of the Supreme Court of the United States, then Secretary of State, reprinted in 18 Am. Journal of International Law, pages 229-230-231, said:

"The Government of the United States has repeatedly asserted that the limits of territorial waters extend to three marine miles outward from the coast-line. This has been asserted by our Government in making claims upon other Governments. . . .

"It is quite apparent that this Government is not in a position to maintain that its territorial waters extend beyond the three mile limit."

League of Nations Conference for the Codification of International Law, Vol. 2, page 130.

WHEREFORE, the Defendant, LAMBIRIS SKIRIOTES, respectively moves the Court to quash the Information filed against him in the above entitled cause for the reasons herein stated.

Respectfully submitted, Dickenson & Dickenson, by W. B. Dickenson, Attorney for Lambiris Skiriotes.

[fol. 28] IN COUNTY COURT OF PINELLAS COUNTY

[Title omitted]

ORDER DENYING MOTION TO QUASH

The above and foregoing cause coming on to be heard and being argued by the attorneys for both parties and the Court being now fully advised:

It Is Thereupon Considered, Ordered And Adjudged that the said motion to quash be and the same is hereby denied.

Dated this 26th day of January, A. D. 1940, in Chambers at St. Petersburg, Florida.

Jack E. White, Judge of said court.

[fol. 29] IN COUNTY COURT OF PINELLAS COUNTY

[Title omitted]

Transcript of Testimony and Proceedings at Trial

The above and foregoing cause coming on this 26th day of January, 1940, for trial, and the defendant, Lambiris Skiriotes, being duly arraigned on the information heretofore filed in this cause, and being required to plead thereto, enters a plea of nolo contendere, and thereupon it was stipulated and agreed by and between W. B. Dickenson and W. B. Dickenson, Jr., attorneys for the defendant, Lambiris Skiriotes, and by Lambiris Skiriotes, in person, and by

Henry S. Baynard, County Prosecuting Attorney, that a jury be waived and that the court proceed to hear and determine the cause without the intervention of a jury. Thereupon, the court proceeded to hear and determine the cause.

The attorneys for the respective parties stating to the court that there was no dispute as to the facts and having entered into a written stipulation as to what the facts are, as follows:

STIPULATION OF FACTS

It Is Hereby Stipulated And Agreed by and between Henry S. Baynard, Prosecuting Attorney for Pinellas County, Florida; and W. B. Dickenson and W. B. Dickenson, Jr., attorneys at law under the firm name and style of Dickenson & Dickenson, attorneys for the above named defend- [fol. 30] ant, Lambiris Skiriotes; and by the defendant, Lambiris Skiriotes, in pro persona, that your Honor may hear and determine the above and foregoing cause upon the agreed statement of facts in order to save the time and expense of the trial of this cause wherein there is no dispute as to the facts.

The respective parties hereby stipulate and agree that the following statement of facts is a true and correct statement in all respects as to the material facts involved in this charge of violation of the law for which the said Lambiris Skiriotes is now under prosecution.

It Is Agreed that it is true that on the 8th day of March, A. D. 1938, Lambiris Skiriotes, who is by trade and occupation a deep-sea diver engaged in sponge fishery, his resident address being at Tarpon Springs, Pinellas County, Florida, and who has been engaged in this business for the past several years, on the said 8th day of March, 1938, was arrested by Samuel Mickler, a Deputy Sheriff of Pinellas County, Florida, while engaged in using a diving suit, helmet, and all other needed and useful deep-sea diving apparatus used by deep-sea divers, and he was then and there in the act of taking from the Gulf of Mexico commerical sponges, some of which he had already taken and was diving for others at the time of his arrest.

That the place of his arrest and of his taking sponges in the manner above set forth at the time of his arrest was at a point more than one marine league and less than nine marine leagues from mean low tide on the West shore line

of the State of Florida and Southwest of Anclote Key and Northwest of Hog Island; and that the said point at which the defendant was taking sponges as aforesaid from the waters of the Gulf of Mexico was within the Gulf of Mexico [fol. 31] at a point between an extension of the Northern boundary of the said county westward into the Gulf of Mexico and an extension of the Southern boundary of Pinellas County into the Gulf of Mexico.

It Is Further Stipulated And Agreed that the said point was, according to the territorial boundaries of the State of Florida contained in the Constitution of the State of Florida of 1885, within the territorial limits of the State of Florida as fixed by the Constitution of 1885.

It Is Further true that under the treaty entered into between the United States of America and Spain and designated a treaty of amity, settlement, and limits, which was signed at Washington, D. C., February 22, 1819, ratification of the same being advised by the United States Senate February 19, 1821; same being ratified by the President February 22, 1821; same being ratified by Spain October 24, 1820; ratifications exchanged at Washington, D. C. February 22, 1821; and proclaimed by the President on February 22, 1821; the same being the treaty under which the United States acquired from Spain the State of Florida, which said treaty conveyed to the United States only the uplands of the Peninsular of Florida, together with certain islands lying adjacent thereto, this treaty not conveying any part of the waters surrounding the State of Florida below mean low tide.

It Is Agreed that it is true that the following treaties of the United States with the various countries therein named in express terms fix the international boundaries of the United States at three marine miles or one marine league measured from the low-water mark on the mainland, and [fol. 32] declare the remainder of the seas without the jurisdiction of the United States and constitute the high seas.

Treaty Series, No. 685. Convention between the United States and Great Britain—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, January 23, 1924; Ratification advised by the Senate, March 13, 1924;

Ratified by the President March 21, 1924; Ratified by Great Britain, April 30, 1924; Ratifications exchanged at Washington, May 22, 1924; Proclaimed, May 22, 1924.

Treaty Series, No. 694. Convention between the United States and Germany—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, May 19, 1924; Ratification advised by the Senate, May 26, 1924; Ratified by the President, August 9, 1924; Ratified by Germany, July 8, 1924; Ratifications exchanged at Washington, August 11, 1924; Proclaimed, August 11, 1924.

Treaty Series, No. 693. Convention between the United States and Denmark—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, May 29, 1924; Ratification advised by the Senate, June 3, 1924; Ratified by the President, July 11, 1924; Ratified by Denmark, July 8, 1924; Ratifications exchanged at Washington, July 25, 1924; Proclaimed, July 25, 1924.

Treaty Series No. 702. Convention between the United States and Italy—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, June 3, 1924; Ratification advised by the Senate, June 4, 1924; Ratified by the President, October 16, 1924; Ratified by Italy, July 7, 1924; Ratifications exchanged at Washington, October 22, 1924; Proclaimed, October 22, 1924.

Treaty Series, No. 689. Convention between the United States and Norway—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, May 24, 1924; Ratification advised by the Senate, May 31, 1924; Ratified by the President, June 20, 1924; Ratified by Norway, June 20, 1924; Ratifications exchanged at Washington, July 2, 1924; Proclaimed, July 2, 1924.

Treaty Series, No. 698. Convention between the United States and Sweden—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, May 22, 1924; Ratification advised by the Senate, May 26, 1924; Ratified by the President, August 15, 1924; Ratified by Sweden, June 13, 1924; Ratifications exchanged at Washington, August 18, 1924; Proclaimed, August 18, 1924.

Treaty Series, No. 712. Convention between the United States and the Netherlands—Prevention of Smuggling of

Intoxicating Liquors; Signed at Washington, August 21, 1924; Ratification advised by the Senate, December 10, 1924; Ratified by the President, February 26, 1925; Ratified by The Netherlands, March 31, 1925; Ratifications exchanged [fol. 33] at Washington, April 8, 1925; Proclaimed, April 8, 1925.

Treaty Series, No. 707. Convention between the United States and Panama—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, June 6, 1924; Ratification advised by the Senate, December 10, 1924; Ratified by the President, January 15, 1925; Ratified by Panama, December 30, 1924; Ratifications exchanged at Washington, January 19, 1925; Proclaimed January 19, 1925.

Treaty Series, No. 749. Convention between the United States and Spain—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, February 10, 1926; Ratification advised by the Senate, March 3, 1926; Ratified by the President, March 30, 1926; Ratified by Spain, July 20, 1926; Ratifications exchanged at Washington, November 17, 1926; Proclaimed, November 17, 1926.

Treaty Series, No. 738. Convention between the United States and Cuba—Prevention of Smuggling of Intoxicating Liquors; Signed at Habana, March 4, 1926; Ratification advised by the Senate, April 9, 1926; Ratified by the President, April 15, 1926; Ratified by Cuba, June 17, 1926; Ratifications exchanged at Habana, June 18, 1926; Proclaimed, June 19, 1926.

Treaty Series, No. 755. Convention between the United States and France—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, June 30, 1924; Ratification advised by the Senate, December 12, 1924; (Legislative Day of December 10, 1924) Ratified by the President, December 30, 1924; Ratified by France, March 1, 1924; Ratifications exchanged at Washington, March 12, 1927; Proclaimed, March 12, 1927.

Treaty Series, No. 829. Prevention of Smuggling of Intoxicating Liquors—Convention between the United States of America and Chile; Signed at Washington, May 27, 1930; Ratification advised by the Senate of the United States, June 28, 1930; Ratified by the President of the United

States, July 21, 1930; Ratified by Chile, October 2, 1930; Ratifications exchanged at Washington, November 25, 1930; Proclaimed by the President of the United States, November 26, 1930.

Treaty Series, No. 772. Convention between the United States and Greece—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, April 25, 1928; Ratification advised by the Senate May 25, 1928; (Legislative Day of May 3, 1928); Ratified by the President, June 11, 1928; Ratified by Greece, January 8, 1929; Ratifications exchanged at Washington, February 18, 1929; Proclaimed, February 18, 1929.

Treaty Series, No. 807. Convention between the United States and Japan—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, May 31, 1928; Ratification advised by the Senate, January 26, 1929; Ratified by the President, January 30, 1929: Ratified by Japan, November [fol. 34] 22, 1929; Ratifications exchanged at Washington, January 16, 1920; Proclaimed, January 16, 1930.

Treaty Series, No. 759. Convention between the United States and Belgium—Prevention of Smuggling of Intoxicating Liquors; Signed at Washington, December 9, 1925; Ratification advised by the Senate, March 3, 1926; Ratified by the President March 30, 1926; Ratified by Belgium, December 5, 1927; Ratifications exchanged at Washington, January 11, 1928; Proclaimed January 11, 1928.

Treaty Series, No. 821. Prevention of Smuggling of Intoxicating Liquors—Convention between the United States of America and Poland; Signed at Washington, June 19, 1930; Ratification advised by the Senate of the United States, June 28, 1930; Ratified by the President of the United States, July 11, 1930; Ratified by Poland, August 1, 1930; Ratifications exchanged at Warsaw, August 2, 1930; Proclaimed by the President of the United States, August 8, 1930.

Offers in Evidence

The defendant further to maintain issues in his behalf, introduced in evidence the following extracts taken from "League of Nations Conference for the Codification of International Law", Volume 2, the following diplomatic cor-

respondence by the State Department and President of the United States, as shown by the several extracts with respect to the political decisions and contentions with reference to the establishment of the international boundaries of the territorial waters of the United States.

On November 8, 1793, Mr. Jefferson, then Secretary of State, wrote a letter to the British Minister at Washington, as follows:

"The President of the United States, thinking that, before it shall be finally decided to what distance from our seashores the territorial protection of the United States shall be exercised, it will be proper to enter into friendly conferences and explanations with the Powers chiefly interested in the navigation of the seas on our coasts, and relying that [fol. 35] convenient occasions may be taken for these hereafter, finds it necessary in the meantime to fix provisionally on some distance for the present government of these questions. You are sensible that very different opinions and claims have been heretofore advanced on this subject. The greatest distance to which any respectable assent among nations has been at any time given has been the extent of the human sight estimated at upwards of twenty miles, and the smallest distance, I believe, claimed by any nation whatever, *is the utmost range of a cannon ball,* usually stated at one sea league. Some intermediate distances have also been insisted on, and that of three sea leagues has some authority in its favour. The character of our coast, remarkable in considerable parts of it for admitting no vessels of size to pass near the shores, would entitle us, in reason, to as broad a margain of protected navigation as any nation whatever. Reserving, however, the ultimate extent of this for future deliberation, the President gives instructions to the officers acting under his authority to consider those heretofore given them as restrained for the present to the distance of one sea league or three geographical miles from the seashores. This distance can admit of no opposition, as it is recognized by treaties between some of the powers with whom we are connected in commerce and navigation, and is as little, or less, than is claimed by any of them on their own coasts." 1 Moore's "Digest of International Law", page 702; League of Nations Conference for the Codification of International Law, Vol. 2, page 129.

[fol. 36] On the same date Mr. Jefferson addressed to the French Minister to the United States, a note to the same general effect. (1 American State Papers, Foreign Relations, 183).

On September 2, 1796, Mr. Pickering, Secretary of State, addressed to Lieutenant-Governor of Virginia, as follows:

"Our jurisdiction * * * has been fixed to extend three geographical miles from our shores."

1 Moore's Digest of International Law, page 704, League of Nations, Vol. 2, page 129.

On February 3rd, 1807, Mr. Madison, Secretary of State, addressed Messrs. Monroe and Pinkney, Ministers of England as follows:

"There could surely be no pretext for allowing less than a marine league from the shore, that being the narrowest allowance found in any of the authorities on the law of nations."

1 Moore's Digest — International Law, page 705. League of Nations, Vol. 2, page 129.

On December 16, 1862, Mr. Seward, Secretary of State, addressed a letter to Mr. M. Tassara, Spanish Minister, as follows:

"But it must always be a matter of uncertainty and dispute at which point the force of arms exerted on the coast can actually reach. The publicists rather advanced towards than reached a solution when they laid down the rule that the limit of the force is the range of a cannon ball. The range of a cannon ball is shorter or longer according to the circumstances of projection, and it must always be liable to change with the improvements of the science of ordinance. [fol. 37] Such uncertainty upon a point of jurisdiction or sovereignty would be productive of many and endless controversies and conflicts. A more practical limit of national jurisdiction upon the seas was indispensably necessary, and this was found, as the undersigned things, in fixing the limit at three miles from the coast. This limit was early proposed by the publicists of all maritime nations. While it is not insisted that all nations have accepted or acquiesced and bound themselves to abide by this rule when applied

to themselves, yet three points involved in the subject are insisted upon by the United States; first, that this limit has been generally recognized by nations; second, that no other general rule has been accepted; and third, that if any State has succeeded in fixing for itself a larger limit, this has been done by the exercise of maritime power, and constitutes an exception to the general understanding which fixes the range of a cannon-shot (when it is made the test of jurisdiction) at three miles. So generally is this rule accepted that writers commonly use the two expressions, of a range of cannon-shot and three miles, as equivalents of each other."

1 Moore's "Digest of International Law", pages 706, 707; League of Nations, Vol. 2, pages 129 and 130.

On May 28, 1886, Mr. Bayard, Secretary of State, wrote Mr. Manning, Secretary of the Treasury, a letter in which he said:

"The position of this department has uniformly been that the sovereignty of the shore does not, so far as territorial authority is concerned, extend beyond three miles from low-water mark, etc."

[fol. 38] 1 Wharton's Digest of International Law, page 107; 1 Moore's Digest of International Law, page 720; League of Nations, Vol. 2, page 130.

On July 3, 1902, Mr. Herbert H. D. Pierce, Agent of the United States in the C. H. White case, Russian arbitration, in reply to the question asked by Mr. T. M. C. Asser, arbitrator, said:

"The Government of the United States claims, neither in Bering Sea nor in its other bordering waters, an extent of jurisdiction greater than a marine league from its shores, etc."

U. S. Foreign Relations 1902, Appendix 1, pages 440, 461; League of Nations Conference for the Codification of International Law, Vol. 2, page 130.

On January 23, 1904, in an address of Mr. Chief Justice Charles E. Hughes, of the Supreme Court of the United States, then Secretary of State, reprinted in 18 Am. Journal of International Law, pages 229-231, inclusive, said:

"The Government of the United States has repeatedly asserted that the limits of territorial waters extend to three marine miles outward from the coast-line. This has been asserted by our Government in making claims upon other Governments • • •

"It is quite apparent that this Government is not in a position to maintain that its territorial waters extend beyond the three mile limit."

League of Nations Conference for the Codification of International Law, Vol. 2, page 130.

After argument of Counsel, the Court reserved his findings and judgment.

[fol. 39] Which was all the testimony and proceedings had and taken on said date.

I Hereby Certify the above is a true and correct transcript of the proceedings had before me in the above entitled cause, in Chambers, in St. Petersburg, Pinellas County, Florida, on the 26th day of January, A. D. 1940. Jack F. White, County Judge.

IN COUNTY COURT OF PINELLAS COUNTY

[Title omitted]

PLEA OF DEFENDANT

The defendant, Lambiris Skiriotes, waived arraignment in open Court and enters a pleas of 'Nolle Contendre' to the charges contained in the above information.

[fols. 40-45] Agreed statement of facts omitted. Printed side page, 29 ante.

[fol. 46] IN COUNTY COURT OF PINELLAS COUNTY

[Title omitted]

JUDGMENT

The testimony in said cause having been concluded and argument by counsel representing both parties being presented to the Court; and the Court now being fully advised in the premises, finds you, Lambiris Skiriotes, guilty as charged in the Information, and it is the judgment of the Court that you are guilty of the charge as made against you in the Information filed in this cause.

The Court reserves the right to pass sentence after the presenting and arguing of Motion for New Trial and Motion in Arrest of Judgment.

Done and ordered in Open Court at Clearwater, Pinellas County, Florida, this 27th day of January, A. D. 1940.

Jack F. White, Judge of the Said Court.

[fol. 47] IN COUNTY COURT OF PINELLAS COUNTY

[Title omitted]

MOTION TO SET ASIDE JUDGMENT, ETC.

To the Honorable Jack F. White, Judge of the above styled Court:

Comes now the above named defendant, Lambiris Skiriotes, by his attorneys, W. B. Dickenson, and W. B. Dickenson, Jr., and within four days after the verdict and judgment of conviction was entered in said cause, and before sentence was pronounced upon the defendant, and respectfully moves the Court to set aside the verdict and judgment of conviction in the above cause and grant to the defendant a new trial upon the following grounds, to-wit:

First. Because the Information filed against the defendant charges the alleged offense to have been committed on the high seas beyond and outside of the jurisdiction of the Court.

Second. Because the evidence clearly and conclusively establishes without controversy that the alleged offense with which this defendant was charged and convicted, if committed at all, was committed on the high seas beyond the territorial limits of Pinellas County, Florida, and beyond and outside of the jurisdiction of this Court.

Third. Because the evidence conclusively and without controversy shows that the alleged offense charged in the [fol. 48] Information and of which this defendant was convicted, if committed at all, was committed on the high seas outside of and beyond the jurisdiction of the courts of the State of Florida.

Respectfully submitted, W. B. Dickenson, W. B. Dickenson, Jr., Attorneys for Defendant.

IN COUNTY COURT OF PINELLAS COUNTY

[Title omitted]

MOTION IN ARREST OF JUDGMENT

To the Honorable Jack F. White, Judge of the above styled Court:

Comes now the above named defendant, Lambiris Skiriotes, by his attorneys, W. B. Dickenson, and W. B. Dickenson, Jr., and respectfully shows unto Your Honor that he was on the 26th day of January, 1940, in this Honorable Court convicted under an Information heretofore filed in this cause, of a violation of Section 8087, Compiled General Laws of Florida, adopted in 1927, prohibiting the use of diving apparatus in taking sponge from the territorial waters of the State of Florida; that this motion was filed within four days of the rendition of the verdict and judgment of conviction and before sentence was passed upon this defendant in this cause; and moves the Court to Arrest the Judgment in this cause upon the following grounds, to-wit:

First. Because the Information filed against the defend- [fol. 49] ant charges the alleged offense to have been com-

mitted on the high seas beyond and outside of the jurisdiction of the Court.

Second. Because the evidence clearly and conclusively establishes without controversy that the alleged offense with which this defendant was charged and convicted, if committed at all, was committed on the high seas beyond the territorial limits of Pinellas County, Florida, and beyond and outside of the jurisdiction of this Court.

Third. Because the evidence conclusively and without controversy shows that the alleged offense charged in the Information and of which this defendant was convicted, if committed at all, was committed on the high seas outside of and beyond the jurisdiction of the courts of the State of Florida.

Fourth. Because the Information as framed clearly shows that the offense alleged therein against this defendant and of which he was convicted, if committed at all, was committed on the high seas outside of and beyond the territorial limits of the United States of America, of the State of Florida, and of the County of Pinellas; and therefore, this Court has no Jurisdiction of the alleged offense charged in the Information.

Fifth. Because the Information charges no crime or offense to have happened within the jurisdiction of this Honorable Court.

Sixth. Because this Court is wholly without jurisdiction to hear, try, and determine this cause.

Respectfully submitted, W. B. Dickenson, W. B. Dickenson, Jr., Attorneys for Defendant.

[fol. 50] IN COUNTY COURT OF PINELLAS COUNTY

[Title omitted]

ORDER DENYING MOTION FOR NEW TRIAL, ETC.

The above and foregoing cause coming on to be heard this day before me on Motion for New Trial filed by the defendant, Lambiris Skiriotes, and also upon Motion in

Arrest of Judgment filed by the defendant, Lambiris Skiriotes, and the Court having heard argument of counsel for both parties, and being now fully advised in the premises:

It is Thereupon Ordered and Adjudged that the said Motion for New Trial filed in this cause by the said defendant, be, and the same is hereby denied.

It is Further Ordered and Adjudged that the Motion in Arrest of Judgment filed by the said Defendant in this cause, be, and the same is hereby denied.

Done and Ordered in Open Court at Clearwater, Pinellas County, Florida, this 27th day of January, A. D. 1940.

Jack F. White, Judge of the said Court.

IN COUNTY COURT OF PINELLAS COUNTY

STATE OF FLORIDA

VS.

LAMBIRIS SKIRIOTES

Violation of Sec. 8087 C. G. L. of Florida prohibiting the use of diving apparatus in taking sponge

JUDGMENT AND SENTENCE

The defendant, Lambiris Skiriotes, upon being caused to stand before the bar in custody of the Sheriff, was asked by the Court if he had anything to say why the sentence of the law should not now be pronounced upon him, and he [fol. 51] answering nothing in bar or preclusion thereof, the Judge pronounced the following sentence, to-wit:

"You, Lambiris Skiriotes, having entered a plea of Nolle Contendre to the charges of violation of Section 8087 of the Compiled General Laws of Florida prohibiting the use of diving apparatus in taking sponge, the Court adjudges you to be guilty.

It is therefore the sentence of the law and the judgment and order of this Court that you, Lambiris Skiriotes, for your said offense for which you now stand convicted shall serve two (2) days in the County Jail of Pinellas County, Florida. It is further considered and ordered that you,

Lambiris Skiriotes, shall also pay a fine of Fifty ($50.00) Dollars.

Thereupon the defendant was remanded to the custody of the Sheriff."

IN COUNTY COURT OF PINELLAS COUNTY

[Title omitted]

MOTION FOR ORDER OF SUPERSEDEAS

To the Honorable Jack F. White, Judge of the said Court:

Comes now the above named defendant, Lambiris Skiriotes, by his attorneys, Dickenson & Dickenson, and after his conviction and sentence respectfully shows unto the Court that he is immediately suing out a writ of error to the Circuit Court in the above entitled cause and respectfully moves the Court for an order directing that the suing out of the writ of error do operate as supersedeas pending [fol. 52] the final result of the appeal, and also fixing the amount, terms and conditions of the supersedeas bond to be given by the Defendant, upon which he may be released upon appeal. In this connection the Defendant respectfully shows unto the Court that he has heretofore been released on his own recognizance and has always appeared whenever necessary and will do so in the future if Your Honor will release him upon his own personal bond or accept his recognizance pending the result of the appeal.

Respectfully submitted, Dickenson & Dickenson, by W. B. Dickenson, Attorneys for Defendant.

IN COUNTY COURT OF PINELLAS COUNTY

[Title omitted]

SUPERSEDEAS ORDER

The above and foregoing cause coming on to be heard before me on application of the Defendant for an Order directing that the suing out of the writ of error shall operate as supersedeas, and further applying for an Order

fixing the amount, terms and conditions of the supersedeas bond to be given by the Defendant; and it appearing to the Court that the Defendant has been released on his own recognizance and has not failed to appear when called upon; and the Court having every confidence that he will appear if needed in the future; It is Hereby Ordered,

That the suing out of the writ of error within thirty (30) [fol. 53] days from this date shall operate as supersedeas in all respects in this cause; and

It is further ordered that the Defendant be released on his own recognizance pending the result of appeal.

Done and Ordered in Open Court at St. Petersburg, Pinellas County, Florida, this 27th day of January, A. D. 1940.

Jack F. White, Judge of the Said Court.

IN COUNTY COURT OF PINELLAS COUNTY

[Title omitted]

GROUNDS OF APPEAL

Comes now the above named Appellant, Lambiris Skiriotes, by his attorneys, Dickenson & Dickenson, and within sixty (60) days after the filing of Notice of Appeal files the following grounds of appeal.

The Appellant appeals from the final judgment of conviction heretofore entered in this cause by the Court against this Appellant.

The Appellant also appeals from the sentence imposed upon him by the Honorable Jack F. White, judge of the said Court in this cause.

The Appellant assigns the following grounds of appeal from the said judgment and sentence:

1. The Court erred in over-ruling and denying the defendant's Motion to Quash the Information filed against him in this cause.

2. The Court erred in holding and determining that the jurisdiction of the Criminal Courts of the State of Florida

extends westward from mean low tide on the mainland and adjacent islands of the State of Florida a distance of three [fol. 54] marine leagues or nine nautical miles.

3. The Court erred in holding that the boundaries of the State of Florida, as fixed by the Constitution of Florida of 1885, extending three marine leagues West from mean low tide on the West Coast of Florida, did not violate Section One of Article 14 of the Constitution of the United States of America, originally adopted as the Fourteenth Amendment to the Constitution of the United States of Ameriea.

4. The Court erred in holding and determining that the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, were not violative of Article 6 of the Constitution of the United States of America.

5. The Court erred in holding that the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, were valid and not in violation of Article 2, Section 2, Clause 2, of the Constitution of the United States of America.

6. The Court erred in holding that the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, were valid and enforceable and not in violation of Article One, Section 10, Paragraph One of the Constitution of the United States of America.

7. The Court erred in holding that the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, were valid and not in violation of Article One, Section 10, Paragraph 3 of the Constitution of the United States of America.

8. The Court erred in holding that the law of the State of Florida under which the Information was filed against [fol. 55] the defendant in this cause, and which law is based upon the boundaries of the State of Florida as established by the Constitution of the State of Florida of 1885, was not in violation of the various treaties made and entered into by the United States of America, each of which is specifically set forth in the Motion to Quash the Indictment, and each of which said treaties was made pursuant to the authority granted by the Constitution of the United

States of America and were valid and binding on the United States of America and each and every state of the United States, including the State of Florida.

9. The Court erred in holding that the law under which the Information in this cause was filed against this defendant and which said law is based upon and of necessity relies upon the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, is valid and not in violation of the decisions of the Political and Executive Departments of the Federal Government as to what is and constitutes the extreme limits of the territorial boundaries of the United States of America, as will be more fully shown by reference to the Seventh Ground of the Motion to Quash the Information, the same being made a part of this Assignment of Errors as fully as though set out herein in haec verba.

10. The Court erred in holding and determining under the evidence in this cause submitted to the Court in an agreed statement of facts, the same being filed in this cause, that the alleged offense charged in the Information against the defendant under the agreed statement of facts occurred, was committed, done and performed within the territorial jurisdiction of the Criminal Courts of the State of Florida.

[fols. 56-57] 11. The Court erred, under the facts shown by this record, in holding and determining that this Court had jurisdiction to try and determine the charge in the Information.

12. The Court erred in his determination and holding that the territorial limits of the State of Florida extend westward from mean low tide on the shore line of the State of Florida and adjacent islands thereto a distance of three marine leagues into the Gulf of Mexico.

13. The Court erred in its order over-ruling and denying the Motion for a New Trial upon each of the grounds therein set forth.

14. The Court erred in his order over-ruling and denying the defendant's Motion in Arrest of Judgment and each of the grounds set forth in the said Motion.

Respectfully submitted, Dickenson & Dickenson, by W. B. Dickenson, Jr., Attorneys for Defendant.

Service of a copy of the above and foregoing Grounds of Appeal is hereby acknowledged and all other notice is hereby waived.

Chester B. McMullen, State Attorney.

Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 58] I hereby acknowledge receipt of a carbon copy of the above and foregoing Certified Copy of Appeal Papers and proceedings in the said cause, this 27th day of March, A.D. 1940.

Chester B. McMullen, State Attorney.

[fol. 59] In Supreme Court of Florida, June Term, A. D. 1940, En Banc

Pinellas County

Lambiris Skiriotes, Petitioner,

vs.

The State of Florida, Respondent

Certiorari to Circuit Court, Pinellas County, John U. Bird, Judge. W. B. Dickenson, Dickenson & Dickenson, for Petitioner; George Couper Gibbs, Attorney General, William Fisher, Jr., Assistant Attorney General, for Respondent.

Opinion—Filed September 6, 1940

Terrell, C. J.:

Lambiris Skiriotes was tried and convicted in the County Court of Pinellas County for using diving apparatus in the taking of sponge from the Gulf of Mexico contrary to Section 8087, Compiled General Laws of 1927. His conviction was on appeal affirmed by the Circuit Court so he petitions this Court to review it by certiorari.

Three questions are urged for determination but all turn

on that of whether the provisions of the Constitution of 1885 fixing the western boundary of Florida at three marine leagues (nine nautical miles) from the shore is violative of the Constitution of the United States, including treaties and executive orders made pursuant to the Federal Constitution.

There is no dispute about the facts. It is admitted that the alleged offense was committed within the State if the [fol. 60] boundary as fixed by the Constitution of 1885 is controlling. The case was tried by the Court on waiver of jury and stipulation as to material facts. Petitioner contends that the marine boundary of the State is fixed by international law at one marine league from shore and that the offense was committed beyond this limit.

By the tenth amendment to the Federal Constitution the States reserved all rights and powers which they did not in terms surrender to the United States. In Manchester vs. Massachusetts, 139 U. S. 240, 11 Sup. Ct. 559, 35 L. Ed. 159, the Supreme Court approved the doctrine that a State may determine its own marine boundaries provided it does not exceed the limits recognized by the law of nations. For the purpose of fixing marine boundaries in this country, the states may be considered as nations. As a practical matter, the marine boundary of a State may be fixed by the latter with the approval of Congress and may not be limited to one marine league.

At the time of the Revolution, each state was an independent nation and determined its marine boundary. Such was the practice of each state subsequently admitted to the Union. In the absence of affirmative action on this point the Supreme Court of the United States has generally assumed the sovereignty of the state to extend one marine league from shore. This distance was fixed because it was at the time considered to be the range of a cannon shot and that the state should be permitted to protect that distance from its shore. This distance has in many instances been increased within reason and we find nothing in the law of nations to forbid it.

The western boundary of Florida was fixed at three marine leagues from the main land by the Constitution of 1868. In June of the same year but after the adoption of the Constitution, Congress passed an act admitting Florida and other southern states to the Union, the said act making

[fol. 61] reference to the Constitution of 1868. The Constitution of 1885 repeated the boundary defined in the Constitution of 1868 and the latter has continued to be the boundary to the present.

The petitioner contends that the act of Congress readmitting Florida to the Union did not constitute an approval of the boundary but that if it did, such approval was subsequently withdrawn by treaties entered into between the United States and certain foreign countries including executive orders made by the President and the Cabinet, all of which referred to the boundary of the United States as three marine leagues from the mainland.

It is true that by international law, one marine league is generally considered the distance over which a nation has exclusive jurisdiction and such waters are considered as under the jurisdiction of the sovereign but it has never been determined that such limits were final. Treaties and legislative acts passed pursuant to the Constitution are clothed with equal dignity and by the Constitution are made the Supreme Law of the land. This of course presupposes that they relate to the same subject. The State of Florida was not a party to any of the treaties or executive orders relied on by petitioner and none of them has any reference to the boundary of Florida. Such as they did connote it was one marine league from shore.

Petitioner also contends that if Florida can extend its boundaries to three marine leagues from shore, then there is no limit to the extent they may be extended. The answer to this question is that such extensions must be approved by Congress and when done, its approval is final. We do not infer that any extension would be approved by Congress. Certainly no unreasonable extension or one that would transcend international law would be approved. In Jones vs. United States, 137 U. S, 202, 11 Sup. Ct. 80, [fol. 62] 34 L. Ed. 691, the Supreme Court held that the question of who is the sovereign de jure or de facto is a political rather than a judicial question. The Courts are bound by the legislative determination of such questions.

In support of this position it may be pointed out that the boundaries of the sister states of Alabama, Mississippi, Louisiana, and Texas were fixed by their respective legislatures at the time of admission, some at three marine

leagues from the shore, some at six and Louisiana at nine, yet all said boundaries were approved by acts of Congress in similar manner as that approving the boundary of Florida and some of them have been on the books more than one hundred years. A complete discussion of the boundary of Louisiana and Mississippi is found in Louisiana vs. Mississippi, 202 U. S. 1, 26 Sup. Ct. 408, 50 L. Ed. 913.

Both parties to this cause rely on Manchester v. Massachusetts, and Louisiana vs. Mississippi, supra, to support their contention. The direct question presented here was not raised in either one of those cases. In the former case the Court held that as between nations, the minimum limit of the territorial jurisdiction of a nation over tide waters is a marine league from the coast and that a State may define its marine boundaries within these limits.

In the latter case, it was held that as between states long acquiescence in the assertion of a particular boundary and the exercise of sovereignty over the territory within it should be accepted as conclusive whatever the international rule may be in respect of acquisition by prescription of large tracts of country claimed by two states.

Since one marine league is considered by this line of [fol. 63] cases as the "minimum" width of the marine belt and no maximum is prescribed all of the states referred to have gone on the theory that circumstances warranted a widening of their marine belt and have done so but in keeping with and to the extent that the range of artillery has been lengthened. If the range of a cannon shot controlled the width of the marine belt in the first instance, certainly it may be widened with length of the range. This procedure has been long acquiesced in, was approved by Congress and is not prohibited by the Constitution. We are not convinced that it should be disturbed on the showing made.

From the decided cases, it appears that any state by approval of Congress has a right to fix its marine boundaries and that if fixed in reason, such right has never been questioned by Congress, by any other nation or citizen thereof. Long acquiesence in a boundary so fixed concludes the question. Indiana v. Kentucky, 136 U. S. 479, 10 Sup. Ct. 1051, 34 L. Ed. 329; Maryland v. West Virginia,

217 U. S. 1, 30 Sup. Ct. 268, 54 L. Ed. 645; Pope v. Blanton, 10 Fed. Supp. 18; Linscomb v. Gialourakis, 101 Fla. 1130, 133 So. 104; Cunningham v. Skiriotes, 101 Fed. (2d) 635.

It follows that the western boundary of Florida as defined in its Constitution at three marine leagues from shore is conclusive and being so by the agreed statement of facts, petitioner was guilty of violating Section 8087, Compiled General Laws of 1927, so the writ of certiorari is denied.

It is so ordered.

Whitfield, Brown, Buford, Chapman and Thomas J.J., concur.

[fol. 64] IN SUPREME COURT OF FLORIDA

[Title omitted]

PETITION FOR APPEAL

To the Honorable Justices of the said Court:

Comes now Lambiris Skiriotes, the above named plaintiff-in-error, by his attorneys, Dickenson & Dickenson, and files this, his petition for appeal of said cause from that certain final decision of this Honorable Court made and entered on September 6, 1940, and in which the mandate was transmitted to the Circuit Court on September 23, 1940, and which mandate the petitioner petitions this Court to recall for the purpose of passing upon his petition for appeal.

Your petitioner would further respectfully show Your Honors that prior to the Act of Congress of January 31, 1928, being Chapter 14, 45 Stat. 54, he was under the provisions of the Act of Congress of February 13, 1925, being Chapter 229, 43 Stat. 936, entitled to a writ of error, under the provisions of Section 237, Paragraph A, in the Supreme Court of the United States, in this cause; said section and [fol. 65] paragraph providing:

"A final judgment and decree in any suit in the highest court of the state in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of the United States, and the decision is against its validity, or where is drawn in question the validity of

a statute of any state, on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of its validity, may be reviewed by the Supreme Court, upon a writ of error. The writ shall have the same effect as if the judgment or decree had been rendered or passed in a court of the United States. The Supreme Court may reverse, modify or affirm the judgment or decree of such state court, and may, in its discretion, award execution or remand the cause to the court in which it was removed by the writ."

The Act of Congress of January 31, 1928, being Chapter 14, 45 Stat. 54, provides in Section One:

"That the writ of error in cases, civil and criminal, is abolished. All relief which heretofore could be obtained by writ of error shall hereafter by obtainable by appeal."

The Act of Congress of April 26, 1928, being Chapter 440, 45 Stat. 466, Section 2, provides:

"That the Statute regulating the right to writ of error, defining the relief which may be had thereon, and prescribing the mode of exercising that right and invoking such relief, including the provisions relating to costs, supersedeas and mandate shall be applicable to the appeal which the preceding section substitutes for a writ of error."

[fol. 66] Your petitioner, Lambiris Skiriotes, further shows Your Honors that on January 20, 1940, Henry S. Baynard, Prosecuting Attorney for the County of Pinellas, State of Florida, filed an information in the County Court of Pinellas County, Florida, charging that Lambiris Skiriotes on the 8th day of March, 1938, knowingly, willfully and unlawfully maintained and used for the purpose of catching or taking commercial sponges from the Gulf of Mexico within the territorial limits of the State of Florida, to wit, at a point more than one marine league from mean low tide on the West shore line of the State of Florida and southwest of Anclote Key and northwest of Hog Island and within three marine leagues of mean low tide on the West shore line of the State of Florida at a point approximately two marine leagues from mean low tide on the West shore line of the State of Florida and within the territorial limits of the County of Pinellas, a diving suit,

helmet, and other apparatus used by deep-sea divers, and did then and there catch or take commercial sponges from the Gulf of Mexico in violation of the provisions of Section 4 of Chapter 7389, Laws of Florida, enacted in 1917, and re-enacted as Section 8087, Compiled General Laws of Florida, adopted in 1927.

The said Lambiris Skiriotes filed his motion to quash the information and for grounds of the motion set forth that the statute under which the information was filed was [fols. 67-71] in violation of the provisions of the Constitution of the United States of America, particularly Section One, Article 14, originally adopted as the Fourteenth Amendment to the Constitution of the United States.

That the said Act of the Legislature of Florida was also invalid because it was in violation of the provisions of Article 6 of the Constitution of the United States.

That the said law was invalid because it was in violation of Article 2, Section 2, Clause 2, of the Constitution of the United States.

That the law was invalid because it was in violation of Article One, Section 10, Paragraph One of the Constitution of the United States.

That the law was invalid because it was in violation of Article One, Section 10, Paragraph 3 of the Constitution of the United States.

That the law was invalid because it was in violation of the treaty provisions of the United States of America in respect to the following treaties:

(List of treaties omitted. Printed side page. 22 ante.)

[fol. 72] That the law was invalid because it violates the decisions of the political and executive departments of the Federal Government on the question of what is and constitutes the extreme limits of the territorial boundaries of the United States of America, as shown by the report of the 1929 Conference at Geneva of the League of Nations, issued by the Publications department of the League of Nations "Conference for the Codification of International Law" Tome II.—Eaux Territoriales, as follows:

[fol. 73] "Also, on November 8, 1793, Mr. Jefferson, then Secretary of State, wrote a letter to the British Minister at

Washington, in which he said that the President had instructed him to say that officers acting under his authority to consider those heretofore given them as restrained for the present to the distance of one sea league or three geographical miles from the seashores. 1 Moore's Digest of International Law, page 702; League of Nations Conference for the Codification of International Law, Vol. 2, page 129.

On the same date Mr. Jefferson addressed to the French Minister to the United States, a note to the same effect. (1 American State Papers, Foreign Relations, 183.)

On September 2, 1796, Mr. Pickering, Secretary of State, addressed to Lieutenant-Governor of Virginia, as follows:

'Our jurisdiction * * * has been fixed to extend three geographical miles from our shores.'

1 Moore's Digest of International Law, page 704, League of Nations, Vol. 2, page 129.

On February 3rd, 1807, Mr. Madison, Secretary of State, addressed Messrs. Monroe and Pinkney, Ministers to England, as follows:

[fol. 74] 'There could surely be no pretext for allowing less than a marine league from the shore, that being the narrowest allowance found in any of the authorities on the law of nations.'

1 Moore's Digest International Law, page 705, League of Nations, Vol. 2, page 129.

On December 16, 1862, Mr. Seward, Secretary of State, addressed a letter to Mr. M. Tassara, Spanish Minister, stating that the United States' territory extended one marine league or three miles from the coast line. (1 Moore's Digest of International Law, page 706-707; League of Nations Conference for the Codification of International Law, Vol. 2, page 129-130.)

On May 28, 1886, Mr. Bayard, Secretary of State, wrote Mr. Manning, Secretary of the Treasury, in which he said:

'The position of this department has uniformly been that the sovereignty of the shore does not, so far as territorial authority is concerned, extend beyond three miles from low-water mark, etc.

1 Wharton's Digest of International Law, page 107; 1 Moore's Digest of International Law, page 720, League of Nations, Vol. 2, page 130.

On July 3, 1902, Mr. Herbert H. D. Pierce, Agent of the United States in the C. H. White case, Russian arbitration, in reply to the question asked by Mr. T. M. C. Asser, arbitrator, said:

'The Government of the United States claims, neither in Bering Sea nor in its other bordering waters, an extent of jurisdiction greater than a marine league from its shores, etc.'

U. S. Foreign Relations 1902, Appendix 1, pages 440, 461; League of Nations Conference for the Codification of International Law, Vol. 2, page 130.

[fol. 75] On January 23, 1904, in an address of Mr. Chief Justice Charles E. Hughes, of the Supreme Court of the United States, then Secretary of State, reprinted in 18 Am. Journal of International Law, pages 229-230-231, said:

'The Government of the United States has repeatedly asserted that the limits of territorial waters extend to three marine miles outward from the coast-line. This has been asserted by our Government in making claims upon other Governments . . .

'It is quite apparent that this Government is not in a position to maintain that its territorial waters extend beyond the three mile limit.'

League of Nations Conference for the Codification of International Law, Vol. 2, page 130.''

[fol. 76] The trial court overruled and denied the aforesaid motion, and upon the trial of the issues in said cause found, notwithstanding the evidence shows, that the offense, if committed at all, was committed two marine leagues from the nearest point of land of the State of Florida and the islands adjacent thereto in the Gulf of Mexico, and outside of the international boundary, as fixed by the treaty provisions and by the political decisions and opinions of the United States of America, and fined and imprisoned the defendant.

Upon appeal to the Circuit Court of the Sixth Judicial Circuit of Florida, in and for Pinellas County, Florida, the Circuit Court affirmed the judgment and decisions of the trial court in a written opinion entered in said cause on April 30, 1940. Thereupon, the defendant, Lambiris Skiriotes, applied to this Honorable Court for a Writ of Certiorari setting up and assigning all the errors which had been preserved throughout the proceedings in this cause, and this Honorable Court on the 6th day of September, 1940, filed its opinion and judgment in said cause, and on the 23rd day of September, 1940, filed its mandate in the said Circuit Court of the Sixth Judicial Circuit of Florida, in and for Pinellas County.

This defendant further shows unto Your Honors that neither under the provisions of Chapter 7389, Laws of Florida enacted by the Legislature of 1917, nor under the [fol. 77] provisions of Section 8087, or any other section of the Compiled General Laws of Florida, adopted in 1927, nor under the provisions of any other statute of the State of Florida applicable to the crime charged against this applicant, Lambiris Skiriotes, are the boundaries of the State of Florida, or what constitutes the territorial waters of the State of Florida defined. Therefore, it is necessary to refer to the Constitution of the State of Florida of 1885. Article One of the Constitution of the State of Florida defines the boundaries of the State of Florida in the following language:

"The boundaries of the State of Florida shall be as follows. Commencing at the mouth of the river Perdido; from thence up the middle of said river to where it intersects the south boundary line of the State of Alabama, and the thirty-first degree of north latitude; thence due east to the Chattahoochee River; thence down the middle of said river to its confluence with the Flint River; thence straight to the head of the St. Mary's River; thence down the middle of said river to the Atlantic Ocean; thence southeastwardly along the coast to the edge of the Gulf Stream; thence southwestwardly along the edge of the Gulf Stream and Florida Reefs to, and including the Tortugas Islands; thence northeastwardly to a point three leagues from the mainland; thence northwestwardly three leagues from the land to a

point west of the mouth of the Perdido River; thence to the place of beginning."

[fol. 78] It is therefore fully made to appear to this Honorable Court by the above allegations and excerpts from the record in this cause that the petitioner is entitled to have the said cause reviewed under the provisions of Paragraph 2 of Rule 46 of the Revised Rules of the Supreme Court of the United States and under the applicable statutes of the United States above referred to.

Your petitioner also files herewith his Assignments of Error as required by Rule 9 of the Revised Rules of the Supreme Court of the United States.

Your petitioner also files herewith his statement as to the jurisdiction of the Supreme Court, as required by Rule 12 of the Revised Rules of the Supreme Court of the United States.

Your petitioner respectfully requests the Court to make and enter an order fixing the amount, terms and conditions of a bond providing ample security for costs that may be incurred in the cause as required by paragraph 2 of Rule 46 of the Revised Rules of the Supreme Court of the United States, and also paragraph One of Rule 36 of the Revised Rules of the Supreme Court of the United States.

Your petitioner further requests the Court to assign and issue the requisite citation to the appellee, The State of Florida, as required by paragraph 2 of Rule 46, and also paragraph One of Rule 10 of the Revised Rules of the Supreme Court of the United States.

[fol. 79] Your petitioner further requests the Court to fix the amount, terms and conditions of supersedeas bond to be furnished by your petitioner as required under paragraph 2 or Rule 36 of the Revised Rules of the Supreme Court of the United States.

The applicant calls the Court's attention to the time within which appeals may be allowed, to Section 350 of United States Code Annotated, Title 28, Judicial Code and Judiciary, which carries forward Paragraph 1008 of Revised Statutes, March 3, 1891, c.517, Paragraph 6, 26 Stat. 828; also Act of Congress, September 6, 1916, c.448, Paragraph 6, 39 Stat. 727; also Act of Congress, February 13, 1925, c.229, Paragraph 8, (a, b) 43 Stat. 940, under which statutes the time within which appeals may be allowed is fixed at "within

three (3) months after the entry of such judgment or decree." It is, therefore, apparent that this application is made within the time allowed.

The applicant respectfully applies to this Court for the above mentioned orders and an order allowing and permitting the appeal to the Supreme Court of the United States from the said final judgment and order of this Court entered on September 6, 1940.

Respectfully submitted,

Lambiris Skiriotes, Petitioner. Dickenson & Dickenson, By W. B. Dickenson, Attorneys for Petitioner.

[fol. 80] Service of a copy of the above and foregoing Petition for Appeal for and on behalf of the State of Florida is hereby acknowledged this 19th day of November, A. D. 1940.

George Cooper Gibbs, Attorney General of the State of Florida, acting for and on behalf of the State of Florida. By Wm. Fisher, Jr., Assistant Attorney General.

[fol. 81] IN SUPREME COURT OF FLORIDA

[Title omitted]

ASSIGNMENTS OF ERROR

Comes now the above named Appellant, by his undersigned attorneys and respectfully shows unto the Court in support of his application for appeal that the Supreme Court of Florida, in entering in its opinion and judgment on September 6, 1940, a copy of which opinion and judgment is hereto attached and marked Exhibit "A", erred in the following particulars, and assigns each of the following as his assignments of error on appeal:

I

The Court erred in sustaining the Circuit Court of Pinellas County, Florida, sitting as the first appellate court, in overruling and denying the defendant's (appellant's) motion to quash the information filed against him in this cause.

[fol. 82]

II

The Court erred in denying the Appellant's application for certiorari and thereby holding and determining that the jurisdiction of the criminal courts of the State of Florida extends westward from mean low tide on the mainland and adjacent islands of the State of Florida a distance of three marine leagues or nine nautical miles.

III

The Court erred in holding that the boundaries of the State of Florida, as fixed by the Constitution of Florida of 1885, extending three marine leagues westward from mean low tide on the West coast of Florida into the Gulf of Mexico, did not violate Section One of Article 14 of the Constitution of the United States of America, originally adopted as the 14th Amendment to the Constitution of the United States of America.

IV

The Court erred in holding and determining that the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, were not violative of Article 6 of the Constitution of the United States of America.

V

The Court erred in holding that the boundaries of the State of Florida, as fixed by the Constitution of the State [fol. 83] of Florida of 1885, were valid and not in violation of Article 2, Section 2, Clause 2 of the Constitution of the United States of America.

VI

The Court erred in holding that the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, were valid and enforceable and not in violation of Article One, Section 10, Paragraph One of the Constitution of the United States of America.

VII

The Court erred in holding that the boundaries of the State of Florida, as fixed by the Constitution of the State

of Florida of 1885, were valid and not in violation of Article One, Section 10, Paragraph 3 of the Constitution of the United States of America.

VIII

The Court erred in holding that the law of the State of Florida under which the Information was filed against the defendant in this cause, and which law was based upon the boundaries of the State of Florida as established by the Constitution of the State of Florida of 1885, is not in violation of the various treaties made and entered into by the United States of America, each of which treaties is specifically set forth in the Motion to Quash the Indictment and are the following treaties, to-wit:

[fols. 84-86] List of treaties omitted. Printed side page. 22 ante.

[fol. 87] IX

The Court erred in holding that the law under which the Information in this cause was filed against this defendant (appellant), and which said law is based upon and of necessity relies upon the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, is valid and not in violation of the decisions of the political and executive departments of the Federal government as to what is and constitutes the extreme limits of the territorial boundaries of the United States of America, as shown by the official report of the 1929 Conference at Geneva of [fol. 88] the League of Nations, issued by the Publications Department of the League of Nations "Conference for the Codification of International Law" Tome II.—Eaux Territoriales, setting forth the following matters and things showing the political and executive rulings from November 8, 1793 to January 23, 1924, as follows:

"Also, on November 8, 1793, Mr. Jefferson, then Secretary of State, wrote a letter to the British Minister at Washington, in which he said that the President had instructed him to say that officers acting under his authority

to consider those heretofore given them as restrained for the present to the distance of one sea league or three geographical miles from the seashores. 1 Moore's Digest of International Law, page 702; League of Nations Conference for the Codification of International Law, Vol. 2, page 129.

On the same date Mr. Jefferson addressed to the French Minister to the United States, a note to the same effect. (1 American State Papers, Foreign Relations, 183.)

On September 2, 1796, Mr. Pickering, Secretary of State, addressed to Lieutenant-Governor of Virginia, as follows:

'Our jurisdiction * * * has been fixed to extend three geographical miles from our shores.'

1 Moore's Digest of International Law, page 704, League of Nations, Vol. 2, page 129.

On February 3rd, 1807, Mr. Madison, Secretary of State, addressed Messrs. Monroe and Pinkney, Ministers to England, as follows:

[fol. 89] 'There could surely be no pretext for allowing less than a marine league from the shore, that being the narrowest allowance found in any of the authorities on the law of nations.'

1 Moore's Digest International Law, page 705, League of Nations, Vol. 2, page 129.

On December 16, 1862, Mr. Seward, Secretary of State, addressed a letter to Mr. M. Tassara, Spanish Minister, stating that the United States' territory extended one marine league or three miles from the coast line. (1 Moore's Digest of International Law, page 706-707; League of Nations Conference for the Codification of International Law, Vol. 2, page 129-130.)

On May 28, 1886, Mr. Bayard, Secretary of State, wrote Mr. Manning, Secretary of the Treasury, in which he said:

'The position of this department has uniformly been that the sovereignty of the shore does not, so far as territorial authority is concerned, extend beyond three miles from low-water mark, etc.'

1 Wharton's Digest of International Law, page 107; 1 Moore's Digest of International Law, page 720, League of Nations, Vol. 2, page 130.

On July 3, 1902, Mr. Herbert H. D. Pierce, Agent of the United States in the C. H. White case, Russian arbitration, in reply to the question asked by Mr. T. M. C. Asser, arbitrator, said:

'The Government of the United States claims, neither in Bering Sea nor in its other bordering waters, an extent of jurisdiction greater than a marine league from its shores, etc.'

U. S. Foreign Relations 1902, Appendix 1, pages 440, 461; League of Nations Conference for the Codification of International Law, Vol. 2, page 130.

[fol. 90] On January 23, 1904, in address by Mr. Chief Justice Charles E. Hughes, of the Supreme Court of the United States, then Secretary of State, reprinted in 18 Am. Journal of International Law, pages 229-230-231, said:

'The Government of the United States has repeatedly asserted that the limits of territorial waters extend to three marine miles outward from the coast-line. This has been asserted by our Government in making claims upon other Governments • • •

'It is quite apparent that this Government is not in a position to maintain that its territorial waters extend beyond the three mile limit.'

League of Nations Conference for the Codification of International Law, Vol. 2, page 130."

X

The Court erred in holding and determining under the undisputed evidence in this cause that the alleged offense charged in the Information against the defendant (appellant) was committed, done and performed within the territorial jurisdiction of the criminal courts of the State of Florida.

XI

The Court erred in sustaining the ruling of the Circuit Court of Pinellas County, Florida, sitting as the first appellate court, in overruling and denying the motion of the defendant (appellant) for new trial upon each of the [fol. 91] grounds in said motion set forth.

XII

The Court erred in sustaining the ruling of the Circuit Court of Pinellas County, Florida, sitting as the first appellate court, in overruling and denying the defendant's (appellant's) motion in arrest of judgment upon each of the grounds in said motion set forth.

XIII

The Court erred in sustaining the ruling of the Circuit Court of Pinellas County, Florida, sitting as the first appellate court, that "the jurisdiction of the criminal courts of the State of Florida does extend nine nautical miles or three marine leagues from mean low tide on the coast line of the State of Florida westward into the Gulf of Mexico notwithstanding the various provisions of the Constitution of the United States set forth in the grounds of appeal.

XIV

The Court erred in sustaining the ruling and opinion of the Circuit Court of Pinellas County, Florida, sitting as the first appellate court, to the effect that "the Court is of the opinion and so holds that the boundaries of the State of Florida on the West shore of the State of Florida, as fixed by the Constitution of the State of Florida of 1885 extending the western boundary of the State of Florida three marine leagues from mean low tide on the Western [fol. 92] Coast of the State of Florida and adjacent islands is valid and binding on the courts of the State of Florida, notwithstanding the following provisions of the Constitution of the United States, to-wit: Article 6; Article 2, Section 2, Clause 2; Article One, Section 10, Paragraph One; Article One, Section 10, Paragraph 3."

XV

The Court erred in sustaining the ruling of the Circuit Court of Pinellas County, Florida, sitting as the first appellate court, that "this Court is further of the opinion and holds that the boundary line fixed as the western boundary of the State of Florida by the Constitution of 1885, is valid and binding upon the criminal courts of the State of Florida, notwithstanding the various treaties entered into with foreign countries set forth in the record and which said treaties of the United States were entered into pursuant to the authority of the Constiution of the United States, and each and all of the same fix the international boundary at one marine league from mean low tide on the shore line of the mainland and adjacent islands."

XVI

The Court erred in sustaining the ruling and opinion of the Circuit Court of Pinellas County, Florida, sitting as the first appellate court, that "the western boundary line of the State of Florida, as fixed by the Constitution of [fols. 93-147] the State of Florida of 1885, is valid and binding on the criminal courts of the State of Florida, notwithstanding the decisions and political opinions of the executive department of the federal government announced since 1794 down to the present time to the effect that the extreme limits of the territorial boundaries of the United States of America is and shall be a line parallel with and one marine league from mean low tide on the shore of the mainland and adjacent islands of the United States, which line is and constitutes the recognized international boundary.

XVII

The Court erred in sustaining the judgment and sentence of the Circuit Court of Pinellas County, Florida, sitting as the first appellate court, in the following language: "the judgment of conviction of the appellant by the County Court of Pinellas County, Florida, and the sentence imposed on the appellant by the County Court of Pinellas County, Florida, are each hereby affirmed."

Respectfully submitted, Dickenson & Dickenson, by
W. B. Dickenson, Attorney for Appellant.

[fol. 148] IN SUPREME COURT OF FLORIDA

[Title omitted]

ORDER ALLOWING APPEAL

The above stated cause coming on to be heard before me this day upon the petition of the said Lambiris Skiriotes for the allowance of an appeal to the Supreme Court of the United States of America from that certain final judgment and order of the Supreme Court of the State of Florida filed and entered September 6, 1940, in that certain cause wherein Lambiris Skiriotes was plaintiff and The State of Florida was defendant. And,

Upon inspection of the said petition for the allowance of the said appeal, it appearing to this Court that the said petition is in due form and in full compliance with the rules of the Supreme Court of the United States now in force. And,

It further appearing from said petition that this case is one in which, under the acts of Congress in force when the Act of January 31, 1928, was passed, a review could be had in the Supreme Court of the United States on Writ [fol. 149] of Error. And,

It further appearing from the said petition and statement of the grounds upon which it is contended that the questions involved are substantial, that there are substantial rights involved in this case effecting not only the petitioner but many hundreds of people equally and likewise affected and that one of the largest industries in the State of Florida is greatly affected thereby and that the constitutional rights of all these people engaged in the said industry are involved in this litigation, and that therefore the questions involved should be finally settled and determined in order that the rights of all persons involved, as well as the petitioner, should be determined. And,

It further appearing from the said petition that the petition sustains the fact that the same will support the assertion that the rulings of the court were of a nature to bring the case within the statutory provision conferring jurisdiction on the Supreme Court of the United States. And,

It further being made to appear from the said petition that there is involved in the litigation the question of the

validity of a statute of the State of Florida, the validity of a constitutional provision of the Constitution of the State of Florida, and an assertion that the said statute and constitutional provision of the State of Florida are in con-
[fol. 150] flict with various provisions of the Constitution of the United States of America, and also in conflict with various treaty provisions of various treaties of the United States of America and in conflict with the political rulings and decisions of the Executive and State Departments of the United States of America as asserted and set forth in the petition. And,

It further appearing that the said application for the allowance of appeal as aforesaid was duly filed and all accompanying papers required by the rule duly filed within the time such application may be filed under the rules of the Supreme Court of the United States now in force. And,

The petition being otherwise in the form prescribed by the rules of the Supreme Court of the United States of America and in conformity with the statutes of the United States of America.

It Is Thereupon Considered, Ordered and Adjudged that the petition of the above named Lambiris Skiriotes for the allowance of an appeal from the said final judgment and order of this Court, be, and the same is hereby granted.

It Is Further Considered, Ordered and Adjudged that the appeal prayed for in the said petition for the allowance of appeal from that certain order and judgment of this
[fol. 151] Court made and entered September 6, 1940, to the Supreme Court of the United States of America, be, and the same is hereby granted and allowed.

Done and Ordered this 19th day of November, A. D. 1940, at Tallahassee, Leon County, Florida.

Glenn Terrell, Chief Justice of the Supreme Court of the State of Florida.

Service of a copy of the above and foregoing Order Allowing Appeal is hereby acknowledged for and on behalf of the State of Florida, this 19th day of November, A.D. 1940.

George Couper Gibbs, Attorney General of the State of Florida, acting for and on behalf of the State of Florida, By: Wm. Fisher, Jr., Assistant Attorney General.

[fols. 152-153] Citation in usual form showing service on George Couper Gibbs omitted in printing.

[fol. 154] IN SUPREME COURT OF FLORIDA

[Title omitted]

ORDER FIXING AMOUNT OF BOND

The above and foregoing cause coming on to be heard before me upon application of Lambiris Skiriotes for an order fixing the amount, terms and conditions of the bond to be given by the said Lambiris Skiriotes as security for costs that may accrue or be incurred in and about the appeal to the United States Supreme Court, which appeal has been allowed, and upon the further application of the said Lambiris Skiriotes to fix the amount, terms and conditions of the supersedeas bond to be given by the said Lambiris Skiriotes.

And the Court being advised in the premises;

It Is Thereupon Ordered, Adjudged and Decreed that the said Lambiris Skiriotes do give a good and sufficient bond in the sum of One Hundred ($100.00) Dollars, with two good and sufficient sureties thereon and conditioned to diligently prosecute his said appeal to a final determination and further conditioned that in the event the said cause shall be [fol. 155] dismissed by the Supreme Court of the United States or decided adversely to his contention and the decree of the lower court shall be affirmed, then and in that event, to pay all costs that may have been incurred or accrued in and about the premises against the State of Florida.

It Is Further Ordered and Adjudged that the defendant may be released from custody upon the giving of a bond in the sum of Two Hundred ($200.00) Dollars, with two good and sufficient sureties thereon, conditioned that in the event this cause shall be affirmed in the Supreme Court of the United States or the same be dismissed in the Supreme Court of the United States that he will thereupon personally appear and respond to the sentence and judgment of the trial court.

Done and Ordered at Tallahassee, Leon County, Florida, this 19th day of November, A.D. 1940.

Glenn Terrell, Chief Justice of the Supreme Court of the State of Florida.

[fols. 156-157] Cost Bond on Appeal for $100.00 approved. Omitted in printing.

[fol. 158] IN SUPREME COURT OF FLORIDA

[Title omitted]

PRAECIPE FOR TRANSCRIPT OF RECORD

To the Honorable Guyte P. McCord, Clerk of the above entitled Court:

You are hereby directed to make a transcript to the Supreme Court of the United States under your hand and seal of a true copy of the material parts of the record in the above entitled cause, as directed by Rule 10 of the Revised Rules of the Supreme Court of the United States and other rules applicable to appeals. In making up the record you will please to include and set forth in full therein the following papers:

1. The Petition to the Supreme Court of the State of Florida for a Writ of Certiorari.

2. The Certificate of the Honorable Ray E. Green, Clerk of the Circuit Court in and for Pinellas County, Florida, showing and setting forth all papers and files in the Circuit Court of the Sixth Judicial Circuit of Florida, in and for Pinellas County, which he included in the several exhibits attached to the Application for Writ of Certiorari.

[fol. 159] 3. Exhibit "A", the same being the Judgment entered in said cause by the Honorable John U. Bird, on the 30th day of April, 1940, acting as appellate judge.

4. The certified copy of appeal papers as certified by Honorable Ray E. Green, Clerk of the County Court, in and for Pinellas County, Florida, on the 25th day of March, A. D. 1940.

5. The Opinion and Judgment of the Supreme Court of the State of Florida filed September 6, 1940.

6. The Petition to the Honorable Glenn Terrell, Chief Justice of the Supreme Court of the State of Florida, for the allowance of an appeal to the Supreme Court of the United States; showing Acceptance of Service thereon.

7. The Assignments of Error and the statement directing attention to the provisions of Paragraph 3 of Rule 12 of the Revised Rules of the Supreme Court of the United

States attached thereto, together with the Acceptance of Service of the Appellee.

8. The Jurisdictional Statements filed by the Appellant; showing Acceptance of Service thereon.

9. The Order of the Honorable Glenn Terrell, Chief Justice of the Supreme Court of the State of Florida, allowing the appeal.

10. The Citation to the Appellee issued by the Honorable Glenn Terrell, Chief Justice of the Supreme Court of the State of Florida, showing Acceptance of Service thereon.

[fol. 160] 11. These Written Directions for making up the record.

All other papers and records you will omit from the record, unless directed by the Appellee to include the same.

Dickenson & Dickenson, by W. B. Dickenson, Attorneys for Appellant.

Service of a copy of the above and foregoing Praecipe Indicating Portions Of Record To Be Incorporated In Transcript is hereby acknowledged for and on behalf of The State of Florida, this 19th day of November, A. D. 1940.

George Couper Gibbs, Attorney General of the State of Florida, acting for and on behalf of the State of Florida. By Wm. Fisher, Jr., Assistant Attorney General.

[fol. 161] IN SUPREME COURT OF FLORIDA

[Title omitted]

PRAECIPE FOR ADDITIONAL PORTIONS OF TRANSCRIPT

To the Honorable Guyte P. McCord, Clerk of the above Court:

You are hereby further directed in making up the transcript for transmission to the Supreme Court of the United

States in the above entitled cause, as directed by Rule 10 of the Revised Rules of the Supreme Court of the United States and other rules applicable to appeals, in addition to the directions heretofore filed in this cause, to also include in the transcript before the directions are put in the order fixing the bond for costs required of the appellant, which said order was made and entered by the Honorable Glenn Terrell, Chief Justice of the Supreme Court of Florida, on the 19th day of November, A. D. 1940, and filed in your office on said date.

You will also please to include in the transcript the bond for costs filed in your office by the said appellant in compliance with the order above referred to.

Dickenson & Dickenson, by W. B. Dickenson, Attorneys for Appellant.

[fol. 162] STATE OF FLORIDA,
County of Leon:

I hereby accept service of the above and foregoing Amendment to the Praecipe Indicating Portions of the Record to be incorporated in the transcript in the above entitled cause.

Dated at Tallahassee, Florida, this 23rd day of November, A. D. 1940.

George Couper Gibbs, Attorney General of the State of Florida, by Wm. Fisher, Jr., Assistant Attorney General.

[fol. 163] IN SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS ON WHICH APPELLANT INTENDS TO RELY AND DESIGNATION OF PARTS OF THE RECORD WHICH HE THINKS ARE UNNECESSARY FOR THE CONSIDERATION OF THE COURT—Filed January 6, 1941

I

Appellant insists that under the provisions of Section One of Article Fourteen of the Constitution of the United States and also under the provisions of Article Six of the Con-

stitution of the United States and also under the provisions of Article Two, Section Two, Clause Two of the Constitution of the United States and also under the provisions of Article One, Section Ten, Clause One of the Constitution of the United States and also under the provisions of Article One, Section Ten, Clause Three of the Constitution of the United States, that the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida, adopted in 1885, and the law of the State of Florida under which the appellant was prosecuted are invalid, null and void for the [fol. 164] reason that no state of the Union may extend its boundaries beyond the international boundaries of the United States of America.

II

The appellant insists that the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida of 1885, and the law under which this appellant was prosecuted are invalid and void for the reason that the boundaries of the State of Florida, as fixed by the Constitution of the State of Florida, conflict with and violate the treaty provisions of the United States of America, as shown by the record.

III

The appellant insists that even if the Court should consider that the question involved is a political question, that the record shows that under the political rulings of the Executive and State Departments of the Government it has been conclusively established that the international boundary of the United States of America has been definitely and permanently fixed at one marine league from mean low tide on the mainland and adjacent islands, and that, therefore, the Constitution of the State of Florida attempting to fix the boundaries of the State of Florida at nine nautical miles from mean low tide, and the law of the State of Florida under which the appellant was prosecuted are both null and void in that the same violate the rulings [fol. 165] and decisions of the Executive and State Departments of the United States Government.

IV

Appellant insists that the jurisdiction of the Criminal Courts of the State of Florida does not and cannot extend to a greater distance than one marine league from mean low tide on the mainland of the State of Florida and adjacent islands included within the territory of the State of Florida.

The appellant thinks that the entire record heretofore filed is necessary for the consideration of the questions above stated, except that, as provided by Rule 13, Paragraph 9, all duplications and repetitions mentioned may be omitted.

W. B. Dickenson, Jr., Attorney for Appellant.

STATE OF FLORIDA,
County of Hillsborough:

Before the undersigned authority personally appeared W. B. Dickenson, Jr. who being first duly sworn according to law, deposes and says that he placed a carbon copy of the [fol. 166] above and foregoing Statement of Points on Which Appellant Intends to Rely and Designation of Parts of the Record which He Thinks Are Unnecessary for the Consideration of the Court, in an envelope addressed to Honorable George Couper Gibbs, Attorney-General of the State of Florida, securely sealed the same and placed thereon sufficient postage to insure its delivery and deposited the same in the United States mails at Tampa, Hillsborough County, Florida, on the 2nd day of January, A. D. 1941.

(Signed) W. B. Dickenson, Jr.

Sworn to and subscribed before me this 2nd day of January, A. D. 1941. (Signed) Grace Mary Rogers, Notary Public, State of Florida at Large. My commission expires August 4, 1941. (Seal.)

Endorsed on Cover: File No. 45,007. Florida Supreme Court, Term No. 658. Lambiris Skiriotes, Appellant, vs. The State of Florida. Filed December 28, 1940, Term No. 658 O. T. 1940.